



DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Notice of Request for Information (RFI) Inviting Input on the Sugar Re-Export Programs

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Request for information.

SUMMARY: The Foreign Agricultural Service (FAS) of the U.S. Department of Agriculture is requesting public comments from interested parties on administration of the Sugar Re-Export Programs, which include the Refined Sugar Re-Export Program, the Sugar Containing Products Re-Export Program, and the Polyhydric Alcohol Program. This request for information (RFI) seeks voluntary comment from interested stakeholders and members of the public on these re-export programs.

DATES: Comments on this notice must be received by [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER] to be assured of consideration.

ADDRESSES: USDA invites submission of comments through one of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Email:* FAS will accept electronic comments emailed to FAS.Sugars@usda.gov. The email should contain the subject line, “Response to RFI: Inviting Input on the Sugar Re-Export Programs”.

Instructions: Response to this RFI is voluntary. All comments submitted in response to this RFI will be included in the record and will be made available to the public. Please be advised that the substance of the comments and the identity of the individuals or entities

submitting the comments will be subject to public disclosure. USDA will make the comments publicly available via <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: William Janis, U.S. Department of Agriculture, Foreign Agricultural Service, telephone 202-720-2194, e-mail FAS.Sugars@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

Sugar Re-Export Programs

Pursuant to Additional U.S. Note 6 to chapter 17 of the Harmonized Tariff Schedule of the United States (HTSUS), FAS administers and manages three inter-related programs in the sugar market: the Refined Sugar Re-Export Program, the Sugar Containing Products Re-Export Program, and the Polyhydric Alcohol Program (collectively “Sugar Re-Export Programs”) (7 CFR part 1530). FAS issues licenses to qualified sugar refiners, manufacturers of sugar-containing products (SCP), and producers of polyhydric alcohol not for human consumption that apply for these programs.

Under the Refined Sugar Re-Export Program, USDA issues licenses to sugar refiners to import low-duty raw sugar unrestricted by the raw sugar TRQ provided for in Additional U.S. Note 5(a)(i) in chapter 17 of the HTSUS and exempt from the requirement that imports be accompanied by a Certificate for Quota Eligibility (CQE) issued to the foreign exporter in accordance with 15 CFR part 2011. An equivalent quantity of domestically produced refined sugar must either be exported by the licensee or provided by the licensee to licensed U.S. manufacturers for use in exported SCP or licensed producers for use in polyhydric alcohol for non-food purposes.

Under the Sugar-Containing Products Re-Export Program, USDA issues licenses to U.S. manufacturers of SCP to purchase refined sugar from refiners with refined sugar re-export licenses for use in SCP to be exported to the world market.

Under the Polyhydric Alcohol Program, USDA issues licenses to U.S. producers of polyhydric alcohols to purchase refined sugar from refiners with refined sugar re-export licenses for use in the production of polyhydric alcohols, except polyhydric alcohols used as a substitute for sugar in human food consumption.

By statute, “for purposes of Additional U.S. Note 6 to chapter 17 of the Harmonized Tariff Schedule of the United States and the reexport programs and polyhydric alcohol program administered by the Secretary, all refined sugars (whether derived from sugar beets or sugarcane) produced by cane sugar refineries and beet sugar processors shall be fully substitutable for the export of sugar and sugar-containing products under those programs.” (7 U.S.C. 7272(h))

Request for Information:

This RFI is a general solicitation for public comment, including from stakeholders involved directly or indirectly in the Sugar Re-Export Programs. This input will inform FAS on the public’s views of the current administration of these programs.

Specific questions to which comments are requested are listed below. Respondents may provide non-confidential input concerning any or all of these questions. We also welcome comment on any topics related to the Sugar Re-Export Programs but not covered in these questions.

The Sugar Re-Export Programs:

1. The Sugar Re-Export Programs regulations define “Refiner” to mean “any person in the U.S. Customs Territory that refines raw cane sugar through affination or defecation, clarification, and further purification by absorption or crystallization.” (7 CFR 1530.101). We seek the public’s views on this definition.

a. What role does “absorption” play, if any, within the sugar refining purification process? In particular, please comment on what production steps “absorption” entails and whether and how it is possible for a refiner to purify raw cane

sugar by using absorption as part of the sugar refining purification process. Please provide any relevant accredited standards, international standards, or other scientific guides, or links thereto.

b. What role does “adsorption” play, if any, within the sugar refining purification process. In particular, please comment on what production steps “adsorption” entails and whether and how it is possible for a refiner to purify raw cane sugar by using adsorption as part of the sugar refining purification process. Please provide any relevant accredited standards, international standards, or other scientific guides, or links thereto.

c. Is it possible to use both absorption and adsorption during the sugar refining purification process? When and in what context? Please explain and provide any relevant accredited standards, international standards, or other scientific guides, or links thereto.

d. Should sugar refining be redefined to include purification by “adsorption and crystallization” rather than “absorption or crystallization”? Please explain and provide any relevant accredited standards, international standards, or other scientific guides, or links thereto.

e. To account for future technological advancements in refining sugar, should a performance-driven definition replace the current process-based definition of refiner? If so, please describe your recommended approach or performance-based definition and any relevant accredited standards, international standards, or other scientific guides, or links thereto. One example of a performance-driven definition is: “*Refiner* means any entity that increases the polarity of raw cane sugar for further processing from less than 99.5 to 99.8 (99.86% sucrose by volume) or more, determined on a dry basis, and produces sugar with ICUMSA Color Units of 45 or lower.”

2. Pursuant to 7 CFR 1530.105(m) and 7 CFR 1530.113, the Licensing Authority has waived paragraph (k) of section 1530.105, which requires that a licensee must retain

ownership for the product until exported from the U.S. Customs Territory. This waiver is available at <https://www.fas.usda.gov/programs/sugar-import-program/sugar-re-export-program-waivers-issued-january-14-2002>. Under this waiver, licensed refiners and manufacturers may sell refined sugar and SCP to a U.S. order party (e.g., a broker, wholesaler/distributor), who has arranged for the sale and export of the merchandise to a foreign buyer, or to a foreign entity in the United States, who has purchased the merchandise for export (“third party exporters”).

a. Please comment on the extent to which licensed refiners and manufacturers use third party exporters.

b. Please provide your views on the benefits of or issues raised by this activity, if any.

3. Pursuant to 7 CFR 1530.105(m) and 7 CFR 1530.113, the Licensing Authority has waived paragraph (l) of section 1530.105, which prohibits a refiner from assigning its license without the written permission of the Licensing Authority, and the definitions of “transfer” and “date of transfer” in section 1530.101 whereby a “transfer” requires the transfer of legal title of the program sugar from a licensed refiner to a licensed SCP manufacturer or polyhydric alcohol producer. These waivers are available at <https://www.fas.usda.gov/programs/sugar-import-program/sugar-re-export-program-waivers-issued-january-14-2002>. Under the waivers, an SCP manufacturer or polyhydric producer may purchase raw cane sugar in foreign markets and import it using a refiner's license under the Refined Sugar Re-export Program. The SCP manufacturer or polyhydric alcohol producer may maintain legal title of the imported sugar throughout the entire process, from importation as raw cane sugar, through refining, and final transfer to the license of the SCP manufacturer or polyhydric alcohol producer. This practice has become known as “toll refining.”

a. Please comment on the extent to which licensees are engaging in toll refining.

b. Please provide your views on the benefits of or issues raised by toll refining, if any.

4. Pursuant to section 1530.113, the Licensing Authority has waived the definition of “refined sugar” in section 1530.101, which provided that “Refined sugar means any product that is produced by a refiner by refining raw cane sugar and that can be marketed as commercial, industrial or retail sugar.” The Licensing Authority redefined “refined sugar” to mean “sugar whose content of sucrose by weight, in a dry state, corresponds to a polarimeter reading of 99.5 degrees or more, or any brown sugar regardless of polarity manufactured from refined sugar.” The waiver and definition are available at <https://www.fas.usda.gov/programs/sugar-import-program/sugar-re-export-program-waivers-issued-january-14-2002>. Please provide your views on this definition of “refined sugar.”

5. Do you have any other comments, concerns or suggested improvements regarding the Sugar Re-export Programs?

Any information obtained from this RFI is intended to be used by the Government on a non-attribution basis for reviewing operation of the Sugar Re-Export Programs. This RFI does not constitute a formal solicitation for proposals or abstracts. Your response to this notice will be treated as information only. FAS will not reimburse any costs incurred in responding to this RFI. Respondents are advised that FAS is under no obligation to acknowledge receipt of the information received or provide feedback to respondents with respect to any information submitted under this RFI. Responses to this RFI do not bind FAS to any further actions related to this topic. Responses will become government property.

No confidential information, such as confidential business information or proprietary information, should be submitted in comments for this RFI. Comments received in response to this notice will be a matter of public record and will be made available for public inspection and posted without change and as received, including any business information or personal information provided in the comments, such as names and addresses. Please do not include anything in your comment submission that you do not wish to share with the general public.

Aileen Mannix,

Acting Licensing Authority,

Foreign Agricultural Service.

[FR Doc. 2022-19134 Filed: 9/2/2022 8:45 am; Publication Date: 9/6/2022]